

FILED

United States District Court

FEB 13 2017

EASTERN DISTRICT OF OKLAHOMA

PATRICK KEANEY
Clerk, U.S. District Court

In the Matter of the Search of
 INFORMATION ASSOCIATED WITH GOOGLE
 E-MAIL ACCOUNT jcb8464@gmail.com, USER
 NAME "Jay Berry", THAT IS STORED AT
 PREMISES CONTROLLED BY GOOGLE, 1600
 AMPITHEATER PARKWAY, MOUNTAINVIEW,
 CALIFORNIA 94043

By _____
 Deputy Clerk
 Case No. **MJ-17-009-KEW**

APPLICATION FOR SEARCH WARRANT

I, ADAM REYNOLDS, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that there is now concealed on the following person or property located in the Northern District of California (*identify the person or describe property to be searched and give its location*):

SEE ATTACHMENT "A"

The person or property to be searched, described above, is believed to conceal (*identify the person or describe the property to be seized*):


SEE ATTACHMENT "B"

The basis for the search under Fed. R. Crim. P. 41(c) and Title 18, United States Code, Section 2703 is (*check one or more*):

- ☒ evidence of a crime;
- ☒ contraband, fruits of crime, or other items illegally possessed;
- ☒ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

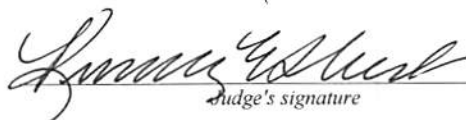
The search is related to a violation of Title 18, United States Code, Sections 2251 and 2252, and the application is based on these facts:

- ☒ Continued on the attached sheet.
- ☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.


 ADAM REYNOLDS, Special Agent
 Federal Bureau of Investigation

Sworn to before me and signed in my presence.

Date: Feb. 13, 2017


 Judge's signature

City and state: Muskogee, Oklahoma

KIMBERLY E. WEST
 UNITED STATES MAGISTRATE JUDGE
 Printed name and title

**AFFIDAVIT IN SUPPORT OF AN APPLICATION UNDER RULE 41 FOR SEARCH
WARRANT**

I, Adam Reynolds, hereinafter referred to as "Affiant," being duly sworn, depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I make this affidavit in support of an application for a search warrant for information associated with particular Gmail email accounts that are stored at premises owned, maintained, controlled, or operated by Google, an Internet search and email company. The information to be searched is described in the following paragraphs and in Attachment B. This affidavit is made in support of an application for a search warrant under 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A) to require Google to disclose to the government records and other information in its possession, pertaining to the subscriber or customer associated with the user ID.

2. Affiant is a Special Agent with the Federal Bureau of Investigation (FBI), and has been so employed for approximately seven (7) and a half years. Affiant is currently assigned to the Oklahoma City Division, Muskogee Resident Agency of the FBI, and is authorized and responsible for conducting investigations of numerous criminal violations that fall within the FBI's jurisdiction. Through training and experience, Affiant is familiar with such investigations and the execution of search warrants associated with these investigations.

3. In my training and experience, I have learned that Google is a company that provides Internet, e-mail and other communication services to the general public, and that stored electronic communications, including opened and unopened e-mail for Google subscribers may be located

on the computers of Google. Further, I am aware that computers located at Google contain information and other stored electronic communications belonging to unrelated third parties. Accordingly, this affidavit and application for search warrant seek authorization solely to search the computer accounts and/or files following the procedures set forth herein and further described in Attachment B.

4. The information in this affidavit was obtained by Affiant personally, through the assistance of other law enforcement agents and agencies, including their reports, and through other sources specifically named in this affidavit. Based upon your Affiant's knowledge, training, and experience along with the experience of other law enforcement personnel with whom Affiant has consulted on this issue, your Affiant knows that individuals who possess and distribute child pornography often utilize their email account to facilitate the distribution and storage of child pornography. The Gmail account to be searched is **jcb8464@gmail.com**, which is further described in the following paragraphs and in Attachment A. As set forth herein, there is probable cause to believe that on the computer systems of Google exist evidence, fruits, and/or instrumentalities of violations of United States laws related to Title 18, United States Code, Sections 2251 and 2252. This affidavit is being submitted for the limited purpose of securing a search warrant; therefore, I have not included each and every fact known to me concerning this investigation. I have set forth facts that I believe are necessary to establish probable cause to believe that evidence of violations of the aforementioned federal criminal statute exists. There is also probable cause to search the information described in Attachment A for evidence of these crimes, as described in Attachment B.

JURISDICTION

5. This Court has jurisdiction to issue the requested warrant because it is “a court of competent jurisdiction” as defined by 18 U.S.C. §2711(3)(A)(i), 18 U.S.C. §§2703(a), (b)(1)(A) and (c)(1)(A). Specifically, the Court is “a district court of the United States (including a magistrate judge of such court)...that had jurisdiction over the case being investigated.” 18 U.S.C. §2711(3)(A)(i).

PROBABLE CAUSE

6. The National Center for Missing and Exploited Children (NCMEC) is a national clearinghouse for issues relating to missing and sexually exploited children, authorized by Congress to perform services to assist law enforcement regarding these issues. NCMEC receives complaints via their CyberTipLine from Internet Service Providers (ISPs), Electronic Service Providers (ESPs) and individual persons. These CyberTip reports are reviewed by a NCMEC analyst and forwarded to the FBI if no further action can be taken based on the information provided in the CyberTip report.

7. On or about May 12, 2016, a CyberTip was reported to NCMEC by Dropbox Inc. as a result of approximately 69 videos depicting child pornography being posted to a Dropbox account. The Dropbox account in this case was created using the email address of **jcb8464@gmail.com**, user name “Jay Berry”. Dropbox Inc. provided this information and the child pornography images/videos within the CyberTip report. Pursuant to an FBI administrative subpoena dated June 14, 2016, Google provided information pertaining to e-mail address **jcb8464@gmail.com** for the period of December 14, 2015, through June 14, 2016. The registered name on the e-mail account was “jay B” , with a recovery email of **jberry6443@yahoo.com**. The

cellular telephone number associated with the account was (918) 856-0464, which was determined using readily available Internet records to be a US Cellular number. Pursuant to an FBI administrative subpoena dated July 8, 2016, US Cellular provided information pertaining to cellular telephone number (918) 856-0464 for the period of January 8, 2016, through July 8, 2016. The registered name on the wireless account was John Berryhill with an address listed as 25319 Wilson Road, Okmulgee, Ok 74447.

8. On October 20, 2016, Special Agent (SA) Adam Reynolds reviewed the videos uploaded by **jcb8464@gmail.com**, user name “Jay Berry”, Dropbox account and confirmed they depicted child pornography. The videos were submitted for review through NCMEC’s Child Recognition Identification System (CRIS). The CRIS report listed 5 videos as being videos containing known child victims. SA Reynolds reviewed one of the videos titled “11mo” and is described as follows:

a. The video is approximately 1 minute and 24 seconds in length and shows two males approximately 10 years in age, completely nude. One child then begins to performing fellatio on the other. Towards the end of the video one child can be seen placing his penis in the other child’s anus.

9. On or about January 4, 2017, SA Reynolds received a response from Dropbox on a Federal Search Warrant signed by United States Magistrate Judge Kimberly E. West for the Dropbox account **jcb8464@gmail.com**, user name “Jay Berry”. On January 5, 2017, SA Reynolds reviewed the results from Dropbox and found approximately 133 videos of suspected child pornography.

10. On January 5, 2017, SA Reynolds contacted Detective Ables with the Okmulgee Police Department to confirm John Berryhill's address. Ables stated that in December 2016 Berryhill changed his address with the Okmulgee County Sheriff's Office from 25319 Wilson Road, Okmulgee, Oklahoma to 25317 Wilson Rd., Okmulgee, Oklahoma, in accordance with his sex offender registration rules.

11. On January 9, 2017, SA Reynolds conducted a drive by surveillance on 25319 and 25317 Wilson Road, Okmulgee, Oklahoma. SA Reynolds observed that multiple buildings/possible residences appear to be on the property and that multiple mailboxes were also visible at the entrance to the driveway.

12. On January 10, 2017, SA Reynolds contacted District 25 Investigator Mike Snyder, and asked for assistance in determining which one of the residences was 25319 and 25317. Snyder made contact with the County Assessor and was able to determine that 25319 Wilson Road, is the brown rock house on the property and that the center structure is 25317 Wilson Road. The far west mobile home would be 25315 Wilson Road.

13. On February 2, 2017, SA Reynolds interviewed John Carl BERRYHILL at 25319 Wilson Road, Okmulgee, Oklahoma. SA Reynolds explained to BERRYHILL that the reason law enforcement was there that day was because SA Reynolds knew he had used his Motorola cell phone to upload videos to Dropbox that contained child pornography. SA Reynolds asked if BERRYHILL remembered doing that. BERRYHILL stated "Yes". BERRYHILL stated he got the videos from the Internet, via a link that was sent to him. BERRYHILL stated he was aware that he had a prior felony conviction for a child related sex offense and that he was not supposed to be accessing child pornography. BERRYHILL stated his email account was jcb8464@gmail.com and that BERRYHILL used Google Plus to talk to other people.

14. BERRYHILL stated he communicated with a "Michael Mayhem" via his Gmail account **jcb8464@gmail.com**. "Mayhem" sent him images and links to images containing child pornography to his Gmail account **jcb8464@gmail.com**. "Mayhem" had to change his account numerous times due to being kicked off Google Plus. BERRYHILL did not delete the emails from his Gmail account. BERRYHILL met "Mayhem" on a gay teen chat group. BERRYHILL pretended to be a gay teenager in the chat group. BERRYHILL told "Mayhem" that he had three twin half brothers that he would do things to. "Mayhem" asked for pictures and videos of the brothers. BERRYHILL stated this was a made up story and never provided any images or videos to "Mayhem".

INFORMATION TO BE SEARCHED AND THINGS TO BE SEIZED

15. I anticipate executing this warrant under the Electronic Communications Privacy Act, in particular 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A), by using the warrant to require Google to disclose to the government copies of the records and other information (including the content of communications) particularly described in Section I of Attachment B. Upon receipt of the information described in Section I of Attachment B, government-authorized persons will review that information to locate the items described in Section II of Attachment B.

16. The item that is subject of the search is the email account **jcb8464@gmail.com** controlled or operated by the Internet search and email company Google, 1600 Amphitheater Parkway, Mountainview, California 94043. As set forth herein, there is probable cause to believe that on the computer systems of Google, Inc. there is evidence of violation(s) of 18 U.S.C. §§ 2251 and 2252. Specifically, the Google account mentioned above may contain electronic evidence of the possession and distribution of child pornography.

SEARCH PROCEDURE

17. In order to ensure that your Affiant searches only those accounts and/or files described in this affidavit and application for search warrant, this affidavit and application for search warrant seek authorization to permit employees of Google to assist agents in the execution of this warrant. To further ensure that your Affiant searches only those accounts and/or files described in this affidavit, the following procedures will be implemented:

- a. In light of Google's corporate policy and due to the technical nature of this search, it is your Affiant's intention to fax the search warrant to Google and request that they actually conduct the search.
- b. In order to minimize any disruption of computer service to innocent third parties, your Affiant shall permit Google, as custodian of the computer files described in this affidavit, to locate the files, copy them onto removable electronic storage media or print them out as paper copies, and deliver the copies to your Affiant who need not be present during this process. Google employees will create an exact duplicate of the accounts and files described in this affidavit.
- c. Google employees will provide the exact duplicate in electronic form of the accounts and files described in this affidavit and all information stored in those accounts and files to your Affiant.
- d. Your Affiant and other agents of the Oklahoma City Division of the FBI, or other law enforcement personnel, will thereafter review the information for evidence of violations of 18 U.S.C. §§2251 and 2252.

e. Pursuant to 18 U.S.C. §2703(g), the presence of a law enforcement officer is not required for the service or execution of this warrant.

CONCLUSION

19. In light of the foregoing, Affiant believes that there is probable cause to conduct a search of the Google email account **jcb8464@gmail.com** which may contain electronic evidence of the possession and distribution of child pornography which were described in this affidavit.

Respectfully submitted,



Adam Reynolds
Special Agent
FBI

Subscribed and sworn to before me on Feb. 13th, 2017



KIMBERLY E. WEST
UNITED STATES MAGISTRATE JUDGE

ATTACHMENT A

Property to Be Searched

This warrant applies to information associated with the following Google email account:
jcb8464@gmail.com that is stored at premises owned, maintained, controlled, or operated by
Google, 1600 Ampitheater Parkway, Mountainview, California 94043

ATTACHMENT B

Particular Things to be Seized

I. Information to be disclosed by Google

To the extent that the information described in Attachment B is within the possession, custody, or control of Google, including any messages, records, files, logs, or information that have been deleted but are still available to Google, or have been preserved pursuant to a request made under 18 U.S.C. § 2703(f), Google is required to disclose the following information to the government for the user ID listed in Attachment B:

- (a) All contact information, including: full name, user identification number, birth date, contact e-mail addresses, physical address (including city, state, and zip code), telephone numbers, screen names, websites, and other personal identifiers.
- (b) All photos and videos uploaded to the Google account;
- (c) All profile contact information;
- (d) All links to any videos, photographs, articles, and other items;
- (e) All email messages including subfolders created by the user of the account.
- (f) All preserved data that has been stored by Google.
- (g) All other communications and messages made or received by the user, including all chat messages;
- (h) All IP logs, including all records of the IP addresses that logged into the account;
- (i) All information about the user's access;
- (j) The length of service (including start date), the types of service utilized by the user, and the means and source of any payments associated with the service (including any credit card or bank account number);

- (k) All privacy settings and other account settings;
- (l.) All Google Voice records.
- (m) Images of child pornography and files containing images of child pornography in any form wherever they may be stored or found.

II. Information to be seized by the government

All information described above in Section I that constitutes fruits, evidence and instrumentalities of violations of 18 U.S.C. §§ 2251 and 2252 involving the above mentioned Google email accounts identified on Attachment B.

**CERTIFICATE OF AUTHENTICITY OF DOMESTIC BUSINESS
RECORDS PURSUANT TO FEDERAL RULE OF EVIDENCE 902(11)**

I, _____, attest, under penalties of perjury under the laws of the United States of America pursuant to 28 U.S.C. § 1746, that the information contained in this declaration is true and correct. I am employed by Google, and my official title is _____. I am a custodian of records for Google. I state that each of the records attached hereto is the original record or a true duplicate of the original record in the custody of Google, and that I am the custodian of the attached records consisting of _____ (pages/CDs/kilobytes). I further state that:

- a. all records attached to this certificate were made at or near the time of the occurrence of the matter set forth, by, or from information transmitted by, a person with knowledge of those matters;
- b. such records were kept in the ordinary course of a regularly conducted business activity of Google; and
- c. such records were made by Google as a regular practice.

I further state that this certification is intended to satisfy Rule 902(11) of the Federal Rules of Evidence.

Date

Signature